

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

CBC RESTAURANT CORP., et al.,¹

Debtors.

Chapter 11

Case No. 23-10245 (KBO)
(Jointly Administered)

Objection Deadline:
May 24, 2023 at 4:00 p.m. (ET)

Hearing Date:
No Hearing Necessary Unless Objections
Are Received

Re: Dkt. No. 361

**NOTICE OF SELECTION OF PROPOSED STALKING HORSE PURCHASER
(CORBAK ACQUISITION LLC) AND FILING OF PROPOSED STALKING HORSE
ASSET PURCHASE AGREEMENT**

PLEASE TAKE NOTICE THAT, on April 7, 2023, CBC Restaurant Corp. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, "Corner Bakery") filed the *Debtors' Motion for Entry of Orders: (I)(A) Approving Bidding Procedures for the Sale of All or Substantially All of the Debtors' Assets; (B) Authorizing the Debtors to Enter Into a Stalking Horse Agreement; (C) Scheduling an Auction and Approving the Form and Manner of Notice Thereof; (D) Approving Assumption and Assignment Procedures; and (E) Scheduling a Sale Hearing and Approving the Form and Manner of Notice Thereof; (II)(A) Approving the Sale of the Debtors' Assets Free and Clear of Liens, Claims, Interests and*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include CBC Restaurant Corp. (0801), Corner Bakery Holding Company (3981), and CBC Cardco, Inc. (1938). The Debtors' service address is 121 Friends Lane, Suite 301, Newtown PA 18940.

Encumbrances and (B) Approving the Assumption And Assignment Of Executory Contracts And Unexpired Leases; and (III) Granting Related Relief [Dkt. No. 289] (the "Motion").

PLEASE TAKE FURTHER NOTICE that, on April 20, 2023, the Court entered the *Order (I) Approving Bidding Procedures in Connection with the Sale of Substantially All of Debtors' Assets, (II) Scheduling Bid Deadlines and the Auction, (III) Approving Form and Manner and Notice Thereof, and (IV) Granting Related Relief* [Dkt. No. 361] (the "Bid Procedures Order").

PLEASE TAKE FURTHER NOTICE that, pursuant to the Bid Procedures Order, the Debtors have selected Corbak Acquisition LLC (the "Stalking Horse Bidder"), as the proposed Stalking Horse Bidder pursuant to the *Asset Purchase Agreement by and between Corbak Acquisition LLC and Corner Bakery Holding Company, CBC Restaurant Corp., and CBC Cardco, Inc. Dated May 19, 2023* (the "Stalking Horse APA"), a copy of which is attached hereto as **Exhibit A**.

PLEASE TAKE FURTHER NOTICE that the Stalking Horse APA seeks approval of a breakup fee consisting of cash or other immediately available funds in an amount equal to 3% of the Purchase Price capped at \$750,000 and reasonable and actual expenses in an amount not to exceed \$400,000, which will be the subject of a separate motion. (Stalking Horse APA, ¶ 6.4(b)).

PLEASE TAKE FURTHER NOTICE THAT consistent with Local Rule 6004-1(b), the Debtors disclose the following regarding the Stalking Horse Agreement.

Sale to Insider	The Stalking Horse Bidder is not an "insider" or "affiliate" of any of the Debtors, as those terms are defined in section 101 of the Bankruptcy Code, and there is not any common identity of incorporators, directors, officers, or controlling stockholders between the Stalking Horse Bidder and the Debtors. The Stalking Horse APA does not otherwise contemplate a sale to an Insider or a Related Party.
Agreements with Management	Neither the proposed Stalking Horse Bidder nor any of its agents or representatives have entered into any

	<p>agreements (verbally or otherwise) with the Debtors' insiders, management, or key employees regarding compensation, future employment, or other participation in the ownership or operation of Corner Bakery.</p> <p>Jay Pandya, has from time to time previously discussed with Jeff Crivello, one of the Buyer's representatives, the possibility of engaging Mr. Crivello to operate Corner Bakery in connection with a plan of reorganization and for Mr. Crivello to assist Corner Bakery in raising capital in connection with a reorganization or settlement with SSCP. Similarly, Mr. Crivello spoke with SSCP to communicate his interest in serving as Corner Bakery's Chief Restructuring Officer. However, no agreements were reached with either SSCP or Mr. Pandya. As of May 1, 2023, Mr. Pandya and Mr. Crivello terminated further discussions. Mr. Crivello is currently serving as one of the Stalking Horse Bidder's representatives and assisting it in connection with the proposed Stalking Horse APA. To the extent that the Stalking Horse Bidder engages in any communication with, or decisions regarding, Mr. Pandya or other insiders of the Debtors in connection with the Stalking Horse APA or proposed transaction, Mr. Crivello will be subject to an "ethical wall" and will not participate in such discussions or decisions.</p>
Releases	All causes of actions against any counterparty to the Assigned Agreements, related in any way to the Assigned Agreements, will be released and waived by the Seller. ¶ 7.4(c)(v).
Private Sale/No Competitive Bidding	The sale is being conducted pursuant to the competitive bidding process detailed in the Bid Procedures Order.
Closing and Other Deadlines	The Stalking Horse APA sets forth the conditions and terms for the Closing of the Sale, including an outside Closing Date of June 14, 2023 . The deadlines comport with the relevant deadlines set forth in the Bid Procedures Order. ¶ 2.10, 7.5(a), 8.5(d), 9.2, 11.1(b)
Good Faith Deposit	Contemporaneously with the execution of Stalking Horse APA, the Stalking Horse Bidder and the Debtors will execute the Escrow Agreement and the Stalking Horse Bidder will deposit with the Escrow

	Agent cash in immediately available federal funds by wire transfer to an account designated by the Escrow Agent an amount equal to \$3,206,100.00. The Good Faith Deposit will be held in escrow by the Escrow Agent in an interest-bearing bank account approved by Purchaser. The Escrow Agreement shall provide that such funds will be returned to the Purchaser if the order approving bidding protections is not approved by the Bankruptcy Court on or before May 24, 2023. These provisions comply with the Bidding Procedures Order ¶2.9(a)
Interim Arrangements with Proposed Buyer	The APA sets forth customary provisions regarding the Debtors' conduct of their business pending the Closing Date. There are no other interim agreements or arrangements with the proposed purchaser, such as an interim management agreement. ¶ 5.
Use of Proceeds	Upon Closing, the net sale proceeds shall be, to the extent permitted and appropriate, distributed or reserved as otherwise permitted by the Bankruptcy Code and applicable Bankruptcy Court Orders.
Tax Exemption	No tax exemptions under section 1146(a) of the Bankruptcy Code are contemplated in connection with the Sale.
Record Retention	The APA provides for Debtors to retain their financial records and otherwise provides continued access to their books and records. ¶2.1(n), 6.2.
Sale of Avoidance Actions	Purchased Assets include Avoidance Actions and all other claims, causes of action, lawsuits, judgments, privileges, counterclaims, defenses, rights of recovery, rights of set-off, rights of subrogation, and all other rights of any kind of Sellers arising under any provision of the Bankruptcy Code, applicable state law, or otherwise, whether asserted or unasserted—and the proceeds thereof—related to Assigned Agreements or counterparties thereto (including franchisees and Franchise Agreements), vendors and service providers used in the Business as set forth on Schedule 2.1(p), and any Tax Claims that are Assumed Liabilities. For the avoidance of ambiguity, Sellers' claims against statutory or non-statutory Insiders are not Purchased Assets. ¶2.1(p).
Requested Findings as to Successor Liability	The transfer of the Purchased Assets will be free and clear (except for Permitted Liens and the Assumed

	Liabilities) of any and all liens (as defined in Section 101(37) of the Bankruptcy Code), claims (as defined in Section 101(5) of the Bankruptcy Code, including, without limitation, claims for successor liability under any theory of Law or equity), or Liens, in each case pursuant to Section 363(f) of the Bankruptcy Code, whether arising prior to or subsequent to the Petition Date. ¶2.1.
Sale Free and Clear of Unexpired Leases	The Debtors are seeking to sell all Purchased Assets free and clear of all liens, claims, encumbrances and other interests, and such interests may include a possessory leasehold interest, license or other right. ¶ 2.1.
Credit Bid	The Stalking Horse APA does not purport to limit or restrict credit bid rights under section 363(k) of the Bankruptcy Code.
Relief from Bankruptcy Rule 6004(h)	The Debtors are requesting relief from the 14-day stay imposed by Rules 6004(h) and 6006(d).

PLEASE TAKE FURTHER NOTICE that objections, if any, to the designation of the Stalking Horse Bidder and the Stalking Horse APA must be made in writing and filed with the Court on or before May 24, 2023 at 4:00 p.m. (ET) the (the "Objection Deadline"). At the same time, you must serve a copy of the objection upon the undersigned proposed counsel to the Debtors so as to be received on or before the Objection Deadline.

Dated: May 19, 2023
Wilmington, Delaware

/s/ Mette H. Kurth
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